IN THE

Supreme Court of the United States

OCTOBER TERM, 1964

No. 614

THEODORE SPECTOR, *Petitioner*

v.

THE UNITED STATES

On Petition for a Writ of Certiorari to the United States Court of Claims

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MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE

and

BRIEF OF AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES AS AMICUS CURIAE

The American Federation of Government Employees hereby submits this brief as *amicus curiae* in support of the petition for a writ of certiorari. There have been lodged with the Clerk the written consents of petitioner's counsel and of the Solicitor General to the filing of this brief.

The American Federation of Government Employees was originally chartered by the American Federation of Labor on August 18, 1932, and is currently affiliated with the American Federation of Labor-Congress of Industrial Or-

ganizations. It is composed of more than 1,000 lodges and has a membership (including lawyers) in excess of 143,000. Lodges are located in each of the 50 States, the District of Columbia, the Panama Canal Zone, Guam, Iceland, Okinawa, Puerto Rico and Germany.

Article II of the Constitution of the American Federation of Government Employees states that the objectives of the organization shall be "to promote the general welfare of civilian governmental employees" and "to promote efficiency in the governmental service." In furtherance of those objectives, the Federation is vitally interested in the administrative procedures affecting the welfare and the job rights of Federal employees. And it is particularly concerned with administrative procedures which are in any way unfair or which deviate from Acts of Congress or Executive Orders.

The Federation accordingly wishes to underscore the importance to and the concern of the many thousands of Federal employees with respect to the three questions presented in the petition for writ of certiorari. When Executive Order 10590 is flouted openly by the designation of an Administrative Assistant Secretary in charge of personnel, as Employment Policy Officer to handle discrimination complaints, all Federal employees are concerned. When publicized delegations of power are blatantly ignored, as in this case, Federal employees suffer the loss of the benefits which those delegations were designed to afford. And when professional qualifications of an employee are assessed by non-professional cohorts selected by a departmental officer who had previously made an adverse assessment, the due process rights of all Federal employees who may be subjected to disciplinary or removal proceedings are gravely impaired. Such a procedure compounds the many vexing problems which the Federation has discovered in seeking to protect and advance the due process rights of Federal employees.

Without attempting to reiterate or add to the legal considerations set forth in the petition, the Federation strongly urges this Court to grant the petition and to reverse the judgment of the Court of Claims. The Court of Claims has ignored the principles established by this Court in such cases as *Peters* v. *Hobby,* 349 U.S. 331; *Anti-Fascist Committee* v. *McGrath,* 341 U.S. 123; *Accardi* v. *Shaughnessy,* 347 U.S. 260; *Service* v. *Dulles,* 354 U.S. 363, and *Vitarelli* v. *Seaton,* 359 U.S. 535. Those decisions were designed to give enforceable rights to Federal employees based upon Executive Orders or regulations of the department or agency in which they are employed. The Court of Claims, moreover, has sanctioned a type of hearing board which can be grossly unfair in terms of tne due process to which employees are entitled.

Review of the decision below thus becomes of critical importance to the Federation and to its many members. Particularly now, when new status has been given employee organizations under Executive Order 10988, it is necessary and important that an agency or department adhere to all lawfully established regulations and orders governing the conditions of employment and the full range of the relations between the management and employees.

The petition for a writ of certiorari should accordingly be granted and the judgment below reversed.

Respectfully submitted,

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